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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of Sections 3(n) )  
and 332 of the Communications Act ) GN Docket No. 93-252  
 )  
Regulatory Treatment of )  
Mobile Services )

REPLY COMMENTS OF PAGING NETWORK, INC.

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REPLY COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), through its attorneys, hereby submits these reply comments in the above-captioned proceeding. <sup>1/</sup> Since PageNet is the largest and most rapidly expanding paging carrier in the United States, it has had extensive involvement with private and common carrier paging licensees under Parts 90 and 22 of the Commission's rules, respectively. This gives PageNet a solid basis for evaluation of the current and proposed procedural regulations and the comments thereon.

**I. OVERVIEW/SUMMARY**

PageNet set forth an analytical framework upon which the Commission should make its revisions to Parts 22 and 90 specifically for 929 MHz and 931 MHz paging services. <sup>2/</sup> The

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<sup>1/</sup> Further Notice of Proposed Rulemaking, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, FCC 94-100, released May 20, 1994 (hereinafter "**Further Notice**").

<sup>2/</sup> Comments of PageNet at 4-6.

major aspects of its regulatory framework in the form of specific licensing proposal include the following:

- Market area (e.g., MTA or state) licensing.
- First-come, first-served licensing.
- Frequency-specific applications.
- Unrestricted transfer of control/assignment of unconstructed authorizations.
- No restriction on spectrum aggregation for messaging services.

A key element of PageNet's proposal - market area licensing - has universal support in the parties' Comments. The paging industry is currently engaged in an ongoing study to develop recommendations for the Commission to adopt the specific aspects of market-area licensing on an MTA, state-wide or similar geographic market designation. Mindful of the Commission's time constraints in adopting final rules in this proceeding, the industry hopes to conclude its study expeditiously and forward its specific recommendations to the Commission. PageNet continues to believe that large geographic service areas are necessary to achieve the stated public interest objectives that PageNet has consistently enunciated throughout this proceeding. Adoption of MTAs would certainly be consistent with those objectives.

Another aspect of PageNet's proposal - first-come, first-served licensing - drew wide support from those entities, e.g.,

the private carrier paging industry association, SMRs, and others, with experience with that type of licensing (with the exception of AirTouch), but was opposed by those more accustomed to the common carrier procedures. The filing of frequency-specific applications was opposed by those same parties.

Although the commenters sought different procedures (with the exception of market area licensing), virtually all of them are seeking to avoid situations where applications are MXed. That is, the commenters have devised means they believe will speed up, not slow down, the Commission's licensing process, so they, in turn, can expediently offer service to the public. For example, PCIA believes that the combination of market area licensing and non-frequency specific application procedures will permit applicants to obtain frequencies in the geographic areas they seek to serve, yet avoid MX situations, so that applicants will not suffer the delays inherent in auctions. Although PageNet believes that PCIA's proposed licensing procedures would, if implemented, fail to meet PCIA's stated objectives, and are flawed because they will create, not avoid MX situations thereby introducing months of delay, PageNet's and PCIA's underlying concerns are the same. They each urge the Commission to avoid MX situations, which, in turn, result in licensing delays that disrupt business plans and delay service to the public.

As set forth below, PageNet urges the Commission to adopt its market area, first-come, first-served proposal. Ultimately,

however, whatever proposal the Commission adopts, PageNet urges it to keep in mind the importance of timely and efficient licensing of these frequencies, so that the public ultimately is served. In this regard, the Commission's objectives should be to:

- Speed new and innovative services to the public.
- Minimize the potential for litigation or administrative delays.
- Minimize and simplify regulation and its associated burdens where possible.
- Allow licensees to minimize cost and maximize efficiencies.
- Determine whether the costs imposed outweigh the benefits of regulation.

PageNet's market area, first-come, first-served proposal is the one proposal which best meets each of these public interest objectives.

## II. GENERAL LICENSING SCHEME FOR 900 MHz PAGING SERVICES

### A. Market Area Licensing Should be Adopted for 900 MHz Paging Systems

In the *Further Notice*, the Commission requested comment on the appropriateness of licensing 900 MHz paging systems on a market area basis rather than transmitter-by-transmitter as is currently done. <sup>3/</sup> Overall, there was significant support for this proposal among the commenters. <sup>4/</sup> As set forth above, the paging industry

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<sup>3/</sup> *Further Notice* at ¶ 37.

<sup>4/</sup> See, e.g., Joint Comments filed by AirTouch Paging ("AirTouch") and Arch Communications Group, Inc. ("Arch") at 9, Comments of Personal Communications Industry Association ("PCIA") at 10, and NABER at 24.

has reached a consensus that licensing should be on an MTA, state-wide, or similar geographic area basis. It is continuing to study the best way for the Commission to achieve such licensing and will provide its specific recommendations to the Commission as expeditiously as possible.

PageNet has long supported licensing on a market wide-area basis. 5/ It believes market wide-area licensing is the keystone of the licensing scheme for the 900 MHz paging industry. 6/ As the Comments uniformly recognize, market area licensing permits licensees the flexibility to grow and modify their systems within their defined market area to instantly respond to their customers' needs. For example, a licensee could immediately add one or more transmitters to improve signal strength within a particular area, e.g., a hospital, and thus dramatically improve reception. At the present time, that result takes months.

Furthermore, as the Comments recognize, market area licensing protects licensees from speculators who might simply put a transmitter or two at the perimeter of an existing licensee's

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5/ See Comments of PageNet at 14-16, and Comments of PageNet filed October 5, 1992 in CC Docket No. 92-115, Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services (hereinafter "Part 22 Rewrite").

6/ The Commission has already adopted market area licensing for narrowband PCS and for 929 MHz private carrier paging. PageNet's comments do not discuss lowband paging because it has very few frequencies, in that area, and because it believes the congestion in those bands may justify unique treatment.

immature system, knowing that sooner or later, the licensee will need to expand and thus have to buy out the speculator. 7/

To transition to market area licensing, PageNet suggests that existing applicants and licensees be given a fixed period of time (e.g., 18 months) in which to build out systems which meet some minimum transmitter requirement, 8/ without being subject to competing applications on those frequencies except from existing licensees within the same service area. Licensees who did not meet this requirement would not be awarded a wide-area license, but would be grandfathered in those regions in the same market area that are outside the top 100 cities. 9/ Subsequent to the

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7/ In fact, PageNet believes that market area licensing largely eliminates the potential threat of speculators. It is true that where there are multiple licensees authorized within a statewide area, the potential exists for one licensee to seek to thwart another. However, PageNet believes that most existing licensees are acutely aware that reciprocal actions could be deployed by the "initial victim," making such conduct unlikely in the first instance. As set forth in its Comments at fn. 23, and herein at fn. 9, PageNet also proposed that the rules prohibit one Watt transmitters, which have been used to make speculative conduct inexpensive.

8/ Requiring construction of a minimum number of transmitters conforms to the earned exclusivity rules the Commission recently adopted for the 929 MHz paging service. PageNet suggests that the minimum number of transmitters required to establish state-wide rights would be dependent on the number of top-100 cities within the state, e.g., a minimum of 6 transmitters would be required in states with a top-100 city, and no fewer than 4 transmitters would be required in any state. Whatever the number, it must represent a substantial commitment on the part of the licensee to build a legitimate system.

9/ There are very few circumstances where one or a nominal number of transmitters could provide effective service to the public, but the Commission should consider waivers in those comparatively rare circumstances. PageNet also suggests that the Commission prohibit the use of 1 Watt transmitters, for purposes of satisfying its construction requirements.



expiration of the build-out time period, new applicants would be permitted to apply for unlicensed frequencies within any wide market area (e.g., apply for market-wide exclusivity conditioned on the timely build-out of the minimum number of transmitters required by incumbents). If they build out those systems, they too would achieve market-wide exclusivity on their frequency.

Where there is more than one incumbent granted market-wide exclusivity, those licensees would be entitled to expand their service areas based on current 70-mile protection criteria. However, no new applicants would be authorized on their frequencies unless the incumbents failed to satisfy their build out requirements.

Defining service areas by geographic region rather than contours will enable carriers to create seamless, integrated paging networks which allow subscribers to receive high quality service. At the same time, such services would be made available to the public as expeditiously as possible and at reduced cost to carriers and the Commission. PageNet believes that market area licensing based on large geographic service areas is the best method through which to achieve these goals.

**B. Frequency-Specific Applications Should be Required and Processed on a First-Come, First-Served Basis**

PageNet strongly believes the Commission should abandon its current practice of assigning 931 MHz paging frequencies and, instead, require that applicants specify in their applications the

proposed frequency of operation. <sup>10/</sup> Comments at 7, 34-40, and PageNet Comments in the Part 22 Rewrite proceeding at 10-11. Those commenters who opposed this approach expressed concern that it would lead, in the future, to strike and speculative application filings. <sup>11/</sup>

As demonstrated in PageNet's Comments, the antidote for speculation and filing abuses is market area licensing. Market area licensing assures legitimate existing licensees of the ability to expand throughout their market area without fear that a speculator will try to interfere for economic gain. <sup>12/</sup> The only impediment to a licensee's build-out with a market area licensing approach comes from other incumbent licensees within its market

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<sup>10/</sup> Many of the comments filed in this proceeding by parties who have had experience with first-come, first-served procedures confirm that it works. See, e.g., Comments of American Mobile Telecommunications Association, Inc. ("AMTA") at 39 ("[AMTA's] extensive experience with Part 90 licensing procedures prompts it to support the broadest possible use of first-come, first-served assignment schemes as being in the public interest. . . . [This system] has been employed without legal challenge for almost two decades, and has facilitated market entry by numerous entities representing a broad range of financial stature"); Comments of E.F. Johnson Company at 21 ("The Company supports retention of the first-come, first-served process for determining mutual exclusivity in existing services. Permitting competitive applications to be filed within 30 days . . . will only encourage speculation and make it more difficult for legitimate providers to seek authorization for locations where they intend to offer service"). See also, Comments of the Committee for Effective Cellular Rules at 2 ("[B]ecause of the minimal likelihood of competing applications, FCFS procedures are more efficient than [sic] longer filing windows").

<sup>11/</sup> See, e.g., Joint Comments of AirTouch/Arch at 14, Comments of PCIA at 32.

<sup>12/</sup> PCIA's Comments seem to cede that their primary concern is in situations where licensees must "file on a transmitter by transmitter basis." Comments of PCIA at 32.

area who have not yet chosen to buildout their own systems. As between two or more incumbent licensees, certainly the license should be awarded to the licensee who perceives the imminent need to expand its system. That licensee should be permitted to apply, on a first-come, first-served basis, without concern that a competitor is lying in wait. PageNet has prepared proposed rules for first-come, first-served licensing of 900 MHz paging services, as set forth in Appendix A, attached hereto.

First-come, first-served licensing's primary purpose is to avoid the delays inherent in all other licensing schemes under consideration here. As PageNet's Comments demonstrate, use of a filing window, even a 30 day window, under the procedures now followed, will not result in the timely grant of licenses. PageNet's current experience is that it takes an average of 6 months to receive an uncontested license under Part 22 procedures. Contrary to PCIA's observation that the "current rules have worked well," <sup>13/</sup> PageNet submits that 6 months is much too long to wait for a license, particularly for growth companies like PageNet. As it is now, there are already situations where PageNet is required to build out at break-neck speed once the license is issued in order to satisfy consumer demand. Any increase in the time it takes to receive a license would simply be untenable for companies with exponential growth.

Furthermore, it certainly cannot be the Commission's intent to reward those companies who have taken a less aggressive

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<sup>13/</sup> Comments of PCIA at 32.

approach to expansion and speed of service to the public, while rewarding those satisfied to grow and provide service at lesser levels.

**C. The Criteria for Modification Applications Should be Broadened to Allow Rational Expansion of Paging Systems**

The Commission has proposed to limit modification applications to those which propose a new or relocated station within 2 kilometers of an existing site or which propose technical changes which would not increase the service contour. All applications not meeting this definition would be deemed "initial" applications and subject to auction in the case of mutual exclusivity.

Commenters were virtually unanimous in their opposition to the Commission's proposal. Most were concerned that adoption of such a rule would subject too many applications to auction and hamper rational expansion of existing systems. <sup>14/</sup>

In PageNet's view, a 2-kilometer modification rule is unnecessary in the context of market area licensing and a first-come, first-served licensing scheme. <sup>15/</sup> Even assuming, as one

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<sup>14/</sup> Comments of Metrocall at 15, Network USA at 15, Celpage, Inc. at 15, RAM Technologies at 15, PCIA at 30, NABER at 44, and Joint Comments of AirTouch/Arch at 15.

<sup>15/</sup> In the event the Commission does not adopt market-area licensing, coupled with first-come, first-served licensing procedures, PageNet recommends that any and all reasonable measures be taken to avoid the need to conduct comparative hearings to choose between conflicting applications. The 2-kilometer definition could, under such a regulatory environment, be necessary to assure that most applications would be deemed "initial" and, therefore, subject to competitive bidding procedures.

must, that the Commission did not intend such a definition to apply to so-called fill-in sites that are wholly internal to a wide-area, multi-station system, PageNet agrees with the vast majority of the commenters that the definition would unnecessarily restrict licensees' flexibility to expand their existing systems.

A far more reasonable standard would be one, as recommended by Metrocall and Paging Partners in their Part 22 Rewrite Comments, whereby auctionable modifications (qua "initial" applications) would be those that propose sites having no overlap with (i.e., lying 20 miles or more from) any existing facility. <sup>16/</sup> This definition, though more expansive than that recommended by the Commission, would provide a more rational basis for system expansion. First-come, first-served application procedures, in combination with wide-market area licensing, would assure that there would be only the slightest likelihood of conflicting applications that would require comparative hearing.

### **III. ADDITIONAL MODIFICATIONS TO TECHNICAL, OPERATIONAL AND LICENSING RULES**

#### **A. Operating Base Station Power Limits Should be Increased and Uniform**

The paging industry uniformly urged the Commission to allow all paging base station facilities above 900 MHz to operate at a

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<sup>16/</sup> Comments of Metrocall in the Part 22 Rewrite proceeding at 8, Paging Partners at 6.

maximum power of 3500 Watts ERP. <sup>17/</sup> Such a rule would allow nationwide and non-nationwide providers to compete for customers on a more even basis. Furthermore, the Commission's concerns regarding co-channel interference can be met without unnecessary limits on stations that are internal to a system.

For the reasons set forth in the parties' comments, PageNet continues to urge the Commission to adopt its proposal to increase power limits to 3500 Watts for all 900 MHz paging services.

**B. Emission Mask Rules Should Permit Stacking of Frequencies**

PageNet sought broadening of the emission mask provisions of Parts 22 and 90 of the Rules to allow stacking of frequencies. <sup>18/</sup> Such a revision would permit licensees to maximize the use of spectrum between bands, thereby bringing a broader and more diverse array of services to the public over existing frequencies.

NABER <sup>19/</sup> and PCIA <sup>20/</sup> supported PageNet's recommendation. In an example of how spectrum efficiencies could be realized in 900 MHz paging services, PCIA showed that a narrowband PCS licensee could utilize spectrum as a single 50 kHz channel with an

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<sup>17/</sup> Comments of PageNet at 21-23. A ruling on this issue for 929 MHz licensing would appropriately moot aspects of Petitions for Reconsideration pending in PR Docket No 93-35, Amendment of the Commission's Rules To Provide Channel Exclusivity To Qualified Private Paging Systems At 929-930 MHz. See also, Comments of NABER at 27, PCIA at 12, and Joint Comments of AirTouch/Arch at 10.

<sup>18/</sup> Comments of PageNet at 20-21.

<sup>19/</sup> Comments of NABER at 26.

<sup>20/</sup> Comments of PCIA at 13.

occupied bandwidth of up to 45 kHz, rather than as two 25 kHz channels with an occupied bandwidth of only 40 kHz.

Emission masks should be liberalized so that paging licensees can take advantage of greater spectral efficiency and technical flexibility, thereby providing greater variety and higher quality service to the public at reasonable rates.

**C. Pre-Grant Construction and Operation Rules Should be Modified**

PageNet argued that all 900 MHz paging service applicants should be permitted to undertake conditional construction at any time, provided they do so at their own risk and have complied with the requisite Federal Aviation Administration ("FAA") and environmental regulations. <sup>21/</sup>

PCIA <sup>22/</sup> and AirTouch <sup>23/</sup> agreed with PageNet's position. Allowance of pre-grant construction and operation would allow applicants flexibility to speed service to the public and therefore should be adopted.

PageNet offered two alternative procedural means by which the Commission could allow pre-grant construction and operation and thereby achieve the objective of bringing service to the public quickly.

One would be to apply the conditional permit procedures of § 90.159(b)-(h) to all 900 MHz paging applications. The other would be to grant Blanket Special Temporary Authority ("BSTA"), as

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<sup>21/</sup> Comments of PageNet at 42-44.

<sup>22/</sup> Comments of PCIA at 34.

<sup>23/</sup> Joint Comments of AirTouch/Arch at 12-13.

the Commission does to common carrier point-to-point microwave applicants. Since both of these procedures are being utilized by the Commission for other services, statutory authority should not be an issue.

**D. Construction Should be Deemed Complete Upon Interconnection to the Public Switched Telephone Network**

An overwhelming majority of those parties commenting on this issue supported PageNet's concept of construction being tied to availability for service, rather than to actual customers on the system. <sup>24/</sup> AirTouch also argued against the Commission's use of loading standards, particularly for wide-area paging systems. <sup>25/</sup>

Substantial justification exists for adoption of a rule that defines construction to be completed upon a system's interconnection to the public switched telephone network and availability for service. It would, for example, recognize that a single transmitter no longer represents a system, and that a system of multiple transmitters is needed to provide service to the public. Thus, such a policy would facilitate the development of wide-area systems and thereby serve the public.

**E. Assignment and Transfer of Unconstructed Authorizations Should be Unrestricted**

PageNet advocated that assignment and transfer of paging authorizations should be unrestricted. <sup>26/</sup> Numerous parties

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<sup>24/</sup> Comments of NABER at 30, Network USA at 16, Celpage at 16, RAM Technologies at 16, Metrocall at 16, and PCIA at 16.

<sup>25/</sup> Joint Comments of AirTouch/Arch at 11.

<sup>26/</sup> Comments of PageNet at 44-47.



agreed, <sup>27/</sup> arguing that ultimately, the "public interest is served if radio frequencies end up in the hands of licensees who find them to be most useful, which result is best achieved through the free alienation of licenses." <sup>28/</sup>

Furthermore, as Nextel pointed out in the SMR context, restrictions on alienability hamper legitimate aggregation efforts of licensees and thus are contrary to the public interest. <sup>29/</sup> PageNet agrees. Like in the SMR context, PageNet believes that no impediment to aggregation should exist. As the Commission has persistently recognized, paging systems are tending toward wide-area, regional and nationwide systems. This means that geographic aggregation will be necessary in order to permit carriers to compete with those, for example, licensed under Part 24 for nationwide, regional and MTA licenses. Furthermore, aggregation of adjacent frequencies within the same geographic region will permit existing carriers to offer services over greater bandwidth if the emission mask limits are amended, as per the industry's unanimous request. This aggregation would allow the build-out enhanced systems to meet advanced paging needs, and should be encouraged.

Imposing trafficking requirements will only slow down and increase the expense of legitimate operators seeking to provide

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<sup>27/</sup> Comments of US West at 9-10, PCIA at 36, BellSouth at 13, Nextel at 44, NABER at 47, McCaw Cellular at 34, and Joint Comments of AirTouch/Arch at 13.

<sup>28/</sup> Joint Comments of AirTouch/Arch at 13.

<sup>29/</sup> Comments of Nextel at 44.

service to the public, because licensees would have to wait to acquire use of a frequency until it is built out, incur both the time delay associated therewith, and the expense of a build-out which may not be consistent with their own system requirements.

#### **IV. SPECTRUM AGGREGATION LIMITS ARE NOT JUSTIFIED**

PageNet maintained that no spectrum limitation should be imposed on individual CMRS licensees. <sup>30/</sup> In support of its position, PageNet stated that the existence of competitive markets responds to the Commission's concern over potentially excessive market power. Specifically, PageNet focused on the competitiveness of the paging market as a basis for not imposing any spectrum restrictions on such licensees.

The substantial majority of those commenting on the spectrum cap issue opposed CMRS spectrum limitations. <sup>31/</sup> In addition, several of those parties argued specifically against limitations on paging or narrowband services. <sup>32/</sup> Even among the three supporters of the Commission's proposal in general, one argued to

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<sup>30/</sup> Comments of PageNet at 47-49.

<sup>31/</sup> Comments of NEXTEL at 34, AMTA at 28, Pagemart at 6, BellSouth at 6, PCIA at 8-9, NABER at 37, CTIA at 8, McCaw Cellular at 12, Bell Atlantic at 9, NYNEX at 4, RAM Mobile Data at 14, Comcast at 1, RCA at 5, Dial Page at 3, GTE at 19, Network USA at 21-22, Celpage at 20-21, RAM Technologies at 21, Metrocall at 21-22, and Joint Comments of AirTouch/Arch at 8..

<sup>32/</sup> Comments of Pagemart at 6, RCA at 9-10, and Dial Page at 6.

exclude narrowband services from any spectrum cap, <sup>33/</sup> and another argued for increasing the cap to 50 MHz. <sup>34/</sup>

None of the commenters favoring a spectrum cap have submitted adequate justification for its adoption, at least for paging/messaging services. The record contains no substantiation of any claim that paging markets are not competitive; indeed, one of the three commenters favoring a spectrum cap states that there is no evidence of anticompetitive conduct in the mobile communications market today, nor is such behavior likely to occur, given the dramatically increased state of competition that is unfolding. <sup>35/</sup> This is a strong argument against adoption of spectrum limits for CMRS providers.

As substantiated by PageNet and others, <sup>36/</sup> the paging market is, in particular, highly competitive. This constitutes the strongest argument against the adoption of spectrum limits for those services.

Other arguments have been advanced against spectrum caps that are persuasive. One is that such a restriction would act as a barrier to entry of new CMRS offerings both to new and existing carriers, thereby stifling competition. <sup>37/</sup> Another is that the construction and operation requirements of specific CMRS offerings

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<sup>33/</sup> Comments of APC at 3.

<sup>34/</sup> Comments of Vanguard at 11.

<sup>35/</sup> Id.

<sup>36/</sup> See Comments of PageNet at 47-48, AMTA at 28, BellSouth at 7, and CTIA at 8.

<sup>37/</sup> Comments of PCIA at 8-9, and Comcast at 1.

are sufficient to preclude hoarding of spectrum. <sup>38/</sup> Similarly, the Commission's competitive bidding rules should impede the artificial aggregation of licenses, since licensees will have to bid and pay for the spectrum for new CMRS licenses. <sup>39/</sup> Several parties maintain that the Commission's current service-by-service approach to spectrum limits, where appropriate, is sufficient. <sup>40/</sup> Finally, other commenters suggest that the Commission can remedy inappropriate spectrum aggregation situations at license renewal or transfer of control/assignment proceedings. <sup>41/</sup>

Taken together, the above arguments establish an overwhelming record in support of PageNet's position against adoption of spectrum limitations for CMRS licensees, particularly for paging licensees.

## V. CONCLUSION

For the reasons set forth above, PageNet supports the adoption of wide market area, first-come, first-served, frequency-specific application procedures for 900 MHz paging services. Other changes must be made to the Commission's Rules, including an increase in operating base station power limits, emission mask rules that allow stacking of frequencies, pre-grant construction and operation, revision of construction requirements, and

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<sup>38/</sup> Comments at GTE at 19.

<sup>39/</sup> Comments of BellSouth at 7, Network USA at 22, Celpage at 22, RAM Technologies at 22, and Metrocall at 25.

<sup>40/</sup> Comments of GTE at 19, and AMTA at 28.

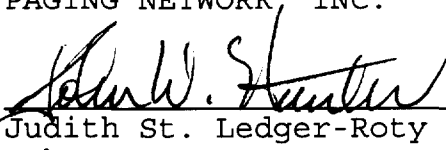
<sup>41/</sup> Id.

unrestricted assignment and transfer of unbuilt authorizations.  
Lastly, PageNet urges the Commission not to impose any additional  
spectrum aggregation limitations on paging/messaging services.

Respectfully submitted,

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## APPENDIX A

### **PROPOSED RULES FOR 931 MHz ONE-WAY PAGING SERVICE FIRST-COME, FIRST-SERVED LICENSING**

New subsections (a) (2) and (b) (2) (iv) are added as follows:

#### **§ 22.31 Mutually exclusive applications.**

(a) ---

(1) ---

(2) For One-way Paging Stations in the 931 MHz band, initial applications for initial authorizations in an MTA shall be considered mutually exclusive if: (i) they are filed on the same day for the same frequency. If an application is considered mutually exclusive on the basis of frequency, an applicant shall have the option of amending its application to specify a different frequency that is available for assignment within that MTA. If such frequency is not available for assignment within that MTA, the applicant shall have no other option with regard to frequency and the application will remain mutually exclusive, unless withdrawn.

Applications to modify authorizations shall be considered mutually exclusive if they propose facilities that are inconsistent with the requirements of Section 22.503(d). Applications proposing new facilities on a frequency licensed within an MTA will not be accepted unless the applicant was previously authorized to provide One-way Paging Service in that MTA on that frequency or receives the consent of all carriers authorized to provide One-way Paging Service in that MTA on that frequency.

(b) ---

(1) ---

(2) ---

(i) ---

(ii) ---

(iii) ---

(iv) One-way Paging Stations in the 931 MHz band. Notwithstanding paragraph (b) (2) (i) above, applications for One-way Paging Stations in the 931 MHz band will only be considered mutually exclusive and entitled to comparative consideration with one or more conflicting applications if they are filed on the same day.

CERTIFICATE OF SERVICE

I, Courtenay P. Adams, hereby certify that a copy of the foregoing "*Reply Comments of Paging Network, Inc.*" was sent, this 11th day of July 1994, by first class U.S. mail, postage prepaid, to the following individuals:

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